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2000; Dec. Dig. § 507.\* 3 Va.-W. Va. Enc. Dig. 579; 12 Va.-W. Va. Enc. Dig. 1027.]

**2. Process (§ 36\*)—Return—Date.**—A writ was not bad because returnable on the "third Monday in January," instead of the "third Monday in January next."

[Ed. Note.—For other cases, see Process, Cent. Dig. §§ 30, 31; Dec. Dig. § 36.\* 12 Va.-W. Va. Enc. Dig. 1029.]

**3. Master and Servant (§§ 278, 279\*)—Injury to Miner—Evidence—Weight.**—In an action for death of a miner while being hoisted in a shaft, caused by sudden application of a brake, evidence held insufficient to show negligence concerning safety of the hoisting machinery or selection of the hoistmen.

[Ed. Note.—For other cases, see Master and Servant, Cent. Dig. §§ 954-980; Dec. Dig. §§ 278, 279.\* 9 Va.-W. Va. Enc. Dig. 674, 681, 725.]

Error to Circuit Court, Louisa County.

Action by Richard S. White's administratrix against the Arminius Chemical Company, Incorporated. Judgment for plaintiff, and defendant brings error. Reversed, and new trial ordered.

*Gordon & Gordon and P. H. C. Cabell*, for plaintiff in error.  
*F. W. Sims*, for defendant in error.

#### SECURITY BANK OF RICHMOND v. EQUITABLE LIFE ASSUR. SOCIETY OF THE UNITED STATES.

June 8, 1911.

[71 S. E. 647.]

**1. Death (§ 2\*)—Presumption.**—The presumption that one who has left home and who has not been heard from for seven years is dead does not arise until the end of the seven years; but there is no presumption as to the particular time of death, nor that he was living at any particular time, within that period.

[Ed. Note.—For other cases, see Death, Cent. Dig. §§ 1-3; Dec. Dig. § 2.\* 11 Va.-W. Va. Enc. Dig. 324.]

**2. Insurance (§ 668\*)—Life Policies—Preliminary Proofs of Death—Sufficiency—Determination.**—In a suit on life policies, it is the duty of the court to determine in the first instance whether the preliminary proofs of death are satisfactory.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1732-1770; Dec. Dig. § 668.\* 9 Va.-W. Va. Enc. Dig. 358.]

**3. Insurance (§ 665\*)—Life Policies—Proofs of Death—Sufficiency.**—Provision for payment of life insurance on "satisfactory proof" of

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

death entitles insurer to demand proof with reasonable certainty, and is complied with by proof sufficient, standing alone, to support recovery.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1707-1728; Dec. Dig. § 665.\* 9 Va.-W. Va. Enc. Dig. 358.]

**4. Insurance (§ 665\*)—Life Policies—Proof of Death.**—A statement, submitted as part of a proof of death under life policies, showing that assured disappeared March 10, 1902, must be considered as of the time the proof was submitted April 22, 1903, and certainly not later than August, 1903, when suit was brought on the policies, as affected by the legal presumption of death.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1707-1728; Dec. Dig. § 665.\* 9 Va.-W. Va. Enc. Dig. 358.]

**5. Insurance (§ 665\*)—Life Policies—Proof of Death—Sufficiency.**—The presumption of death arising from seven years' disappearance and a statement showing that assured disappeared March 10, 1902, is insufficient to show his death before April 14, 1903, when the policies lapsed for nonpayment of premiums.

[Ed. Note.—For other cases, see Insurance, Cent. Dig. §§ 1707-1728; Dec. Dig. § 665.\* 11 Va.-W. Va. Enc. Dig. 324.]

Error to Law and Equity Court of City of Richmond.

Action by Security Bank of Richmond, Va., against Equitable Life Assurance Society of the United States. Judgment for defendant, and plaintiff brings error. Affirmed.

*Mcredith & Cocke, Jno. H. Guy, and Samuel A. Anderson,* for plaintiff in error.

*Christian, Gordon & Christian and Hill Carter,* for defendant in error.

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.